

REMARKS

Reconsideration of the application is respectfully requested, if view of the following remarks.

Since the Office designated the prior action as "final," this response is presented with an RCE to enable the Office to consider the Information Disclosure Statement which is being mailed of even date herewith. A one month suspension of prosecution is being requested on the RCE form.

With respect to the recitation of liquid ammonia as an element of the invention, the Office argues that there is no requirement in the claims that the invention be useful for frozen products and that the ammonia could be liquid at and above room temperature, so long as it is sufficiently pressured. Even if that is true, applicants submit that one of ordinary skill would not be led by the cited art to include liquid ammonia in the extruder of Rauwendaal. That is, it would be unobvious to one of ordinary skill to include the liquid ammonia in the extruder of Rauwendaal even if the liquid ammonia were pressurized so that it could be used at higher temperatures than those contemplated by for the present invention. The Office points to no teaching in the art which would suggest use of a pressurized liquid ammonia in an extruder such as Rauwendaal's to obtain temperatures higher than those contemplated herein just as it cannot point to a teaching of using liquid ammonia to produce applicants' temperatures in the Rauwendaal extuder. Therefore, it is submitted that it would not be obvious to modify Rauwendaal's extruder by using liquid ammonia as a cooling liquid.

The Office appears to rely on the fact that the range of 32-42 degrees, which is pointed to by applicants in connection with a showing of an unexpected result, is not characterized in the specification as "critical" but merely as "preferable." It is submitted

that it is not required that the specification characterize something as "critical." According to Section 716.02(f) of the MPEP, last paragraph, "[t]he specification need not disclose proportions or values as critical for applicants to present evidence showing the proportions or values to be critical. *In re Saunders*, 444 F.2d 599, 607, 170 USPQ 213, 220 (CCPA 1971)." Applicants have pointed to the data in the table on page 8 of the specification as showing an unexpected benefit of the present invention. The Office is requested to consider the data fully rather than dismiss it because a feature at issue is described as "preferred." In the table, the lowest temperature for ice cream (-14.1°C) is attained with a pitch angle and number of threads as defined in present claim 20. It is submitted that this is unexpected in view of the cited art and renders the invention patentable even if a *prima facie* case of obviousness were made out by the cited references.

In view of the foregoing, it is respectfully requested that the application be allowed.

Respectfully submitted,



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